



February 21, 2003

## SENATE BILL No. 179

DIGEST OF SB 179 (Updated February 20, 2003 12:37 PM - DI 106)

**Citations Affected:** IC 16-41; IC 34-30.

**Synopsis:** Exposure of emergency medical services providers. Provides for testing and notification to an emergency medical services provider who has potentially been exposed to a dangerous communicable disease.

**Effective:** July 1, 2003.

**Landske**

January 7, 2003, read first time and referred to Committee on Judiciary.  
February 20, 2003, amended, reported favorably — Do Pass.

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SB 179—LS 6350/DI 97+



February 21, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## SENATE BILL No. 179

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 16-41-10-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this  
3 chapter, "emergency medical services provider" means a firefighter, a  
4 law enforcement officer, a paramedic, an emergency medical  
5 technician, a nurse licensed under IC 25-23, or other person who  
6 provides emergency medical services in the course of the person's  
7 employment.

8 SECTION 2. IC 16-41-10-2 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A provider of An  
10 emergency medical services **provider** who is exposed to blood or body  
11 fluids while providing emergency medical services to a patient may  
12 request notification concerning exposure to a dangerous communicable  
13 disease under this chapter if the exposure is of a type that has been  
14 demonstrated epidemiologically to transmit a dangerous communicable  
15 disease.

16 (b) If a provider of an emergency medical services **provider** desires  
17 to be notified **of results of testing following a possible exposure to**

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1 **a dangerous communicable disease** under this chapter, the ~~provider~~  
 2 ~~of emergency medical services provider~~ shall notify the emergency  
 3 ~~service facility medical services provider's employer~~ not more than  
 4 twenty-four (24) hours after the ~~patient emergency medical services~~  
 5 **provider** is ~~admitted to the facility exposed~~ on a form that is  
 6 prescribed by the state department and the Indiana emergency medical  
 7 services commission.

8 (c) The ~~provider~~ of emergency medical services **provider** shall  
 9 distribute a copy of the completed form required under subsection (b)  
 10 to the following:

11 (1) **If applicable**, the ~~receiving~~ **medical director of the**  
 12 **emergency department of the** medical facility:

13 (A) **to which the patient was admitted following the**  
 14 **exposure; or**

15 (B) **in which the patient was located at the time of the**  
 16 **exposure.**

17 (2) The facility that employs the ~~provider~~ of emergency medical  
 18 services **provider's employer.**

19 (3) The state department.

20 SECTION 3. IC 16-41-10-2.5 IS ADDED TO THE INDIANA  
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 22 [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A patient (including a**  
 23 **patient who is unable to consent due to physical or mental**  
 24 **incapacity) to whose blood or body fluids an emergency medical**  
 25 **services provider is exposed as described in section 2 of this**  
 26 **chapter is considered to have consented to:**

27 (1) **testing for the presence of a dangerous communicable**  
 28 **disease of a type that has been epidemiologically**  
 29 **demonstrated to be transmittable by an exposure of the kind**  
 30 **experienced by the emergency medical services provider; and**

31 (2) **release of the testing results to a medical director or**  
 32 **physician described in section 3 of this chapter.**

33 The medical director or physician shall notify the emergency  
 34 medical services provider of the test results.

35 (b) If a patient described in subsection (a) refuses to provide a  
 36 blood or body fluid specimen for testing for a dangerous  
 37 communicable disease, the exposed emergency medical services  
 38 provider, the exposed emergency medical services provider's  
 39 employer, or the state department may petition the circuit or  
 40 superior court having jurisdiction in the county;

41 (1) **of the patient's residence; or**

42 (2) **where the employer of the exposed emergency medical**



1           services provider has the employer's principal office;  
 2           for an order requiring that the patient provide a blood or body  
 3           fluid specimen.

4           SECTION 4. IC 16-41-10-3 IS AMENDED TO READ AS  
 5           FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as  
 6           provided in subsection (b), if a patient to whose blood or body fluids  
 7           an emergency medical services provider is exposed as described in  
 8           section 2 of this chapter:

9           (1) is admitted to a medical facility following the exposure or  
 10          is located in a medical facility at the time of the exposure, a  
 11          physician designated by an emergency the medical service facility  
 12          shall, not more than seventy-two (72) hours after the medical  
 13          facility is notified under section 2 of this chapter:

14          (A) cause a blood or body fluid specimen to be obtained  
 15          from the patient and testing to be performed for a  
 16          dangerous communicable disease of a type that has been  
 17          epidemiologically demonstrated to be transmittable by an  
 18          exposure of the kind experienced by the emergency  
 19          medical services provider; and

20          (B) notify the medical director of a facility employing the  
 21          provider of emergency medical services described in section  
 22          2 of this chapter if (1) not more than seventy-two (72) hours  
 23          after a patient is admitted to the facility the facility obtains  
 24          information from the patient's records or a diagnosis at the  
 25          facility that the patient has a dangerous communicable disease;  
 26          and (2) the provider of emergency medical services has  
 27          complied with section 2 of this chapter; provider's employer;  
 28          or

29          (2) is not described in subdivision (1), the exposed emergency  
 30          medical services provider, the exposed emergency medical  
 31          services provider's employer, or the state department may:

32          (A) arrange for testing of the patient as soon as possible; or

33          (B) petition the circuit or superior court having  
 34          jurisdiction in the county of the patient's residence or  
 35          where the employer of the exposed emergency medical  
 36          services provider has the employer's principal office for an  
 37          order requiring that the patient provide a blood or body  
 38          fluid specimen.

39          (b) ~~A provider of~~ An emergency medical services provider may, on  
 40          the form described in section 2 of this chapter, designate a physician  
 41          other than the medical director of the facility that employs the provider  
 42          of emergency medical services provider's employer to receive

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notification: on the form described in section 2 of this chapter: the test results.

(c) The notification required by this section shall be made The medical director or physician described in section 3 of this chapter shall notify the emergency medical services provider of the test results not more than forty-eight (48) hours after the facility determines that a patient medical director or physician receives the test results. has a dangerous communicable disease that is potentially transmissible through the incident.

SECTION 5. IC 16-41-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. (a) A medical facility may not physically restrain a patient described in section 2.5 of this chapter in order to test the patient for the presence of a dangerous communicable disease.

(b) Nothing in this chapter prohibits a patient from being discharged from a medical facility before:

(1) a test is performed under section 2.5 or section 3 of this chapter; or

(2) the results of a test are released under section 3 of this chapter.

(c) A provider or a facility that tests a patient for the presence of a dangerous communicable disease under section 2.5 or section 3 of this chapter is immune from liability for the performance of the test over the patient's objection or without the patient's consent. However, this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

SECTION 6. IC 16-41-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) ~~If medically indicated,~~ A medical director or physician notified under section 3 of this chapter shall, **not more than forty-eight (48) hours after receiving the notification under section 3 of this chapter,** contact the ~~provider of~~ emergency medical services **provider** described in section 2 of this chapter to do the following:

(1) Explain, without disclosing information about the patient, the ~~infectious~~ **dangerous communicable** disease to which the ~~provider of~~ emergency medical services **provider** was exposed.

(2) Provide for any medically necessary treatment and counseling to the ~~provider of~~ emergency medical services **provider**.

(b) Expenses of **testing or** treatment and counseling are the responsibility of the ~~provider of~~ emergency medical services **provider**



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1 or the provider's employer.

2 SECTION 7. IC 16-41-10-5 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as  
4 **otherwise** provided in ~~sections 3 and 4~~ of this chapter, **the medical**  
5 **information referred to in this chapter is confidential, and** a person  
6 may not disclose or be compelled to disclose medical or  
7 epidemiological information referred to in this chapter.

8 (b) A person responsible for recording, reporting, or maintaining  
9 information referred to in this chapter who recklessly, knowingly, or  
10 intentionally discloses or fails to protect medical or epidemiological  
11 information classified as confidential under this section commits a  
12 Class A misdemeanor.

13 (c) In addition to the penalty prescribed by subsection (b), a public  
14 employee who violates this section is subject to discharge or other  
15 disciplinary action under the personnel rules of the agency that  
16 employs the employee.

17 SECTION 8. IC 34-30-2-81.5 IS ADDED TO THE INDIANA  
18 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2003]: **Sec. 81.5. IC 16-41-10-3.5 (Concerning**  
20 **a provider who tests a patient for the presence of a dangerous**  
21 **communicable disease).**

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 179, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-41-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "emergency medical services provider" means a firefighter, a law enforcement officer, a paramedic, an emergency medical technician, a nurse licensed under IC 25-23, or other person who provides emergency medical services in the course of the person's employment."

Page 2, line 5, after "receiving" insert "**medical director of the emergency department of the**".

Page 2, line 15, after "patient" insert "**(including a patient who is unable to consent due to physical or mental incapacity)**".

Page 2, line 20, delete "disease;" and insert "**disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider;**".

Page 2, line 21, delete ":".

Page 2, line 22, delete "(A)".

Page 2, run in lines 21 through 22.

Page 2, line 23, delete "; and" and insert ".".

Page 2, delete line 24, begin a new line blocked left and insert: "**The medical director or physician shall notify the emergency medical services provider of the test results.**".

Page 3, line 6, delete "disease;" and insert "**disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider;**".

Page 3, line 16, after "the" insert "**exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the**".

Page 3, line 17, delete "shall:" and insert "**may:**".

Page 3, line 18, delete "not more than" and insert "**as soon as possible; or**

**(B) petition the circuit or superior court having jurisdiction in the county of the patient's residence or**

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where the employer of the exposed emergency medical services provider has the employer's principal office for an order requiring that the patient provide a blood or body fluid specimen."

Page 3, delete lines 19 through 22.

Page 3, line 27, strike "notification."

Page 3, line 27, after "chapter." insert "**the test results.**".

Page 3, line 28, strike "The notification required by this section shall be made" and insert "**The medical director or physician described in section 3 of this chapter shall notify the emergency medical services provider of the test results**".

Page 3, line 29, after "patient" insert "**medical director or physician receives the**".

Page 3, line 30, after "results" insert ".".

Page 3, line 30, delete "establish whether a patient".

Page 3, line 30, strike "has a dangerous".

Page 3, strike line 31.

Page 3, line 32, delete "incident exposure." and insert "~~incident~~".

Page 3, between lines 32 and 33, begin a new paragraph and insert:  
"SECTION 3. IC 16-41-10-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) A medical facility may not physically restrain a patient described in section 2.5 of this chapter in order to test the patient for the presence of a dangerous communicable disease.**

**(b) Nothing in this chapter prohibits a patient from being discharged from a medical facility before:**

- (1) a test is performed under section 2.5 or section 3 of this chapter; or**
- (2) the results of a test are released under section 3 of this chapter.**

**(c) A provider or a facility that tests a patient for the presence of a dangerous communicable disease under section 2.5 or section 3 of this chapter is immune from liability for the performance of the test over the patient's objection or without the patient's consent. However, this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct".**

Page 4, line 3, after "Expenses of" insert "**testing or**".

Page 4, after line 20, begin a new paragraph and insert:

"SECTION 6. IC 34-30-2-81.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2003]: **Sec. 81.5. IC 16-41-10-3.5 (Concerning a provider who tests a patient for the presence of a dangerous communicable disease)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 179 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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